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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,205	07/15/2003	Joseph Smart	2867-205	8731
27820	7590	07/23/2004	EXAMINER	
WITHROW & TERRANOVA, P.L.L.C. P.O. BOX 1287 CARY, NC 27512			NADAV, ORI	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/620,205	SMART ET AL.	
Examiner	Art Unit		
ori nadav	2811		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 June 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 15-35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 15-35 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No: _____
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION***Election/Restrictions***

Applicant's election without traverse of claims 15-35 on 6/17/2004 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-23 and 27-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claimed limitation of one or more structural epitaxial layers further comprises a nucleation layer, as recited in claims 17 and 27, is unclear whether the nucleation layer is the "nucleation", as recited in claims 15 and 26, or it is a different layer.

The claimed limitation of a GaN cap layer, as recited in claims 22 and 32, is unclear as to which layer applicant refers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-23 and 26-33, insofar as in compliance with 35 U.S.C. 112, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al. (6,750,158) in view of Yonehara et al. (6,656,271) or Miyabayashi et al. (6,660,606).

Regarding claims 15-19 and 26-29 Ogawa et al. teach in figure 1 and related text a method of growing a gallium nitride (GaN) epitaxial structure and fabricating an electronic device comprising:

- a) depositing a sacrificial epitaxial layer (column 3, lines 60-61) on a substrate 11;
- b) depositing one or more structural epitaxial layers including a nucleation layer 12a and GaN buffer layer 12 on the sacrificial epitaxial layer; and
- c) fabricating an electronic device on the structural epitaxial layers; and
- d) separating the substrate from the one or more structural epitaxial layers.

Ogawa et al. do not explicitly state that the sacrificial epitaxial layer is separated from the substrate by oxidation.

Yonehara et al. teach an epitaxial layer is separated from a substrate by oxidation (column 37, lines 31-39).

Miyabayashi et al. teach an epitaxial layer is separated from a substrate by oxidation (column 4, lines 40-51).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to separate the sacrificial epitaxial layer from the substrate by

oxidation, in Ogawa et al.'s device, in order to simplify the processing steps of making the device by using a known separating technique.

Regarding claims 20 and 30, Ogawa et al. teach in figure 1 and related text the one or more structural epitaxial layers comprise a barrier layer 13 and a cap layer 16 wherein the depositing the one or more structural epitaxial layers step comprises:

- a) depositing the barrier layer 13 on the GaN buffer layer; and
- b) depositing the cap layer 16 on the barrier layer.

Regarding claims 21-23 and 31-33, Ogawa et al. teach in figure 8E and related text

- a) forming an ohmic source contact 71 on the cap layer 65;
- b) forming an ohmic drain contact 72 on the cap layer and
- c) forming a gate contact 73 on the cap layer between the source contact and the drain contact,

wherein the source, gate, and drain contacts are separate contacts; and
depositing the insulation layer on the GaN cap layer.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form ohmic source, drain and gate contacts on the cap layer, wherein the source, gate, and drain contacts are separate contacts; and
depositing the insulation layer on the GaN cap layer, in Ogawa et al.'s device, in order to use the device in an application which requires an HFET device.

Claims 24 and 34, insofar as in compliance with 35 U.S.C. 112, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al., Yonehara et al. and Miyabayashi et al., as applied to claims 15 and 26 above, and further in view of Lee et al. (6,475,916).

Ogawa et al., Yonehara et al. and Miyabayashi et al. teach substantially the entire claimed structure, as applied to claims 15 and 26 above, except oxidizing the sacrificial epitaxial layer with hydrogen peroxide. Lee et al. teach that hydrogen peroxide is a known oxidizing agent (column 6, lines 44-46). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use hydrogen peroxide as the oxidizing agent, in prior art's device, in order to provide good oxidization of the sacrificial layer by a known oxidizing agent.

Claims 25 and 35, insofar as in compliance with 35 U.S.C. 112, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al., Yonehara et al. and Miyabayashi et al., as applied to claims 15 and 26 above, and further in view of Thakur (6,589,877).

Ogawa et al., Yonehara et al. and Miyabayashi et al. teach substantially the entire claimed structure, as applied to claims 15 and 26 above, except oxidizing the sacrificial epitaxial layer with steam. Thakur teaches that steam is a known oxidizing agent. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use steam as the oxidizing agent, in prior art's device, in order to provide good oxidization of the sacrificial layer by a known oxidizing agent.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference F is cited as being related to forming a GaN structure by separating the epitaxial layers from the substrate..

Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to *Examiner Nadav* whose telephone number is (571) 272-1660. The Examiner is in the Office generally between the hours of 7 AM to 4 PM (Eastern Standard Time) Monday through Friday.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center Receptionists** whose telephone number is 308-0956



O.N.
7/19/04

ORI NADAV
PATENT EXAMINER
TECHNOLOGY CENTER 2800